

Issue: Access to the Grievance Procedure: Ruling Date: June 19, 2015; Ruling No. 2015-4174; Agency: Department of Behavioral Health and Developmental Services; Outcome: Access Denied.



COMMONWEALTH of VIRGINIA
Department of Human Resource Management
Office of Employment Dispute Resolution

ACCESS RULING

In the matter of the Department of Behavioral Health and Developmental Services
Ruling Number 2015-4174
June 19, 2015

On June 17, 2015, the Office of Employment Dispute Resolution (EDR) at the Department of Human Resource Management (DHRM) received a Dismissal Grievance Form A from the grievant. The Department of Behavioral Health and Developmental Services (the agency) challenges the grievant's access to the grievance procedure. For the reasons set forth below, EDR concludes that the grievant does not have access to the grievance process to initiate this grievance.

FACTS

The agency states that the grievant began in his full-time, classified position with the agency on June 25, 2014. On June 15, 2015, the grievant was released from employment due to allegations of derogatory statements. The grievant subsequently filed a dismissal grievance directly with EDR to challenge his separation from employment. After receipt of a copy of the dismissal grievance, the agency informed EDR that the grievant was terminated prior to the end of his probationary period and, thus, should not have access to file this grievance.

DISCUSSION

DHRM Policy 1.45, *Probationary Period*, provides that employees "who begin either original employment or re-employment in classified positions must serve 12-month probationary periods effective from the dates of their employment."¹ The grievant had not completed his twelve-month probationary period when he was terminated on June 15, 2015. The General Assembly has provided that all *non-probationary* state employees may utilize the grievance process, unless exempted by law.² Employees who have not completed their probationary period do not have access to the grievance procedure.³ Accordingly, the grievant does not have access to the grievance procedure to initiate a grievance to challenge his termination. As a result, this dismissal grievance filed will not proceed to a hearing and EDR will close its file.

¹ DHRM Policy 1.45, *Probationary Period*.

² Va. Code § 2.2-3001(A); *Grievance Procedure Manual* § 2.3.

³ *E.g.*, EDR Ruling No. 2005-1032.

EDR's access rulings are final and nonappealable.⁴



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⁴ Va. Code § 2.2-1202.1(5).